

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x **ANSWER**

MIGUEL A. BELTRE, An Infant Under the Age of Fourteen
Years, By His Mother and Natural Guardian, JACKELINE
BELTRE, and JACKELINE BELTRE, Individually,

Plaintiffs,

07 Civ. 6930

UNITED STATES OF AMERICA, ARUNA MISHRA, M.D.,
TAPTI PANDA, M.D., SAMANTHA RAWLINS, M.D.,
and BRONX LEBANON HOSPITAL CENTER,

Defendants.

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Defendants, ARUNA MISHRA, M.D., and SAMANTHA RAWLINS, M.D.,
by their attorneys, Dwyer & Taglia, Esqs., hereby answer the plaintiffs' Complaint as follows:

ANSWER TO THE PREFATORY ALLEGATIONS

1. Deny knowledge or information sufficient to answer the allegations contained in paragraphs **1, 2, 3, 4, 5, 6, 7, 39, 41, 43, 47, 49** and **51** of the Complaint and refer all questions of law to the Court.

2. Deny the allegations contained in paragraphs **8, 9, 10, 12, 13, 21, 22, 23, 25** and **26** of the Complaint in the form alleged except admit that defendants, ARUNA MISHRA, M.D., and SAMANTHA RAWLINS, M.D., were and are physicians licensed to practice medicine in the State of New York who were and are certified by the American Board of Obstetrics and Gynecology and who were and are attending physicians on staff at defendant, BRONX LEBANON HOSPITAL CENTER, and respectfully refer all questions of law to the Court.

3. Deny knowledge or information sufficient to answer the allegations contained in paragraphs **14, 15, 16, 17, 18, 19** and **20** of the Complaint in the form alleged except admits that defendant, TAPTI PANDA, M.D., was a physician enrolled in post-graduate training at defendant, BRONX LEBANON HOSPITAL CENTER, in September 2005, and respectfully refer all questions of law to the Court.

4. Deny knowledge or information sufficient to answer the allegations contained in paragraphs **27, 28, 29, 30, 31, 32, 33**, and **34** of the Complaint except to admit that defendant, BRONX LEBANON HOSPITAL CENTER, was and is a duly licensed and accredited hospital located at 1650 Grand Concourse, Bronx, New York, and respectfully refer all questions of law to the Court.

5. Deny knowledge or information sufficient to answer the allegations contained in paragraphs **35, 36, 37, 38, 40, 42, 44, 45, 46, 48** and **50** of the Complaint except admit that one JACKELINE BELTRE gave birth via cesarean section at defendant, BRONX LEBANON HOSPITAL CENTER, on or about September 21, 2005, and respectfully refer all questions of law to the Court.

ANSWER TO FIRST CAUSE OF ACTION

6. Deny the allegations contained in paragraphs **52, 53, 54, 55, 56**, and **57** of the Complaint and refer all questions of law to the Court.

ANSWER TO SECOND CAUSE OF ACTION

7. Deny the allegations contained in paragraphs **58** and **59** of the Complaint and refer all questions of law to the Court.

FIRST AFFIRMATIVE DEFENSE

The injury and damages claimed were contributed in whole or part by the culpable conduct of the plaintiffs such that defendants will seek a diminution of damages pursuant to C.P.L.R. §1411, et seq.

SECOND AFFIRMATIVE DEFENSE

The defendants' alleged liability is limited by C.P.L.R. § 1601, et seq.

THIRD AFFIRMATIVE DEFENSE

Any verdict or judgment should be reduced by the amounts of past or future collateral source reimbursements of alleged special damages pursuant to C.P.L.R. § 4545(c).

FOURTH AFFIRMATIVE DEFENSE

The action is barred because the plaintiffs have a prior action pending in the Supreme Court of Bronx County.

WHEREFORE, defendants ARUNA MISHRA, M.D., and SAMANTHA RAWLINS, M.D., demand judgment dismissing the Complaint, and further demand that their ultimate rights be determined and that they be awarded judgment against the plaintiffs.

Dated: September 12, 2007
New York, New York

Peter R. Taglia, Esq. (PRT3927)
DWYER & TAGLIA, ESQS.
Attorneys for Defendants
ARUNA MISHRA, M.D., and
SAMANTHA RAWLINS, M.D.
111 John Street, Suite 620
New York, New York 10038
(212) 227-6000